

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 17-20140  
HON. DENISE PAGE HOOD

v.

MARLON FENCHER,

Defendant.

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**ORDER DENYING DEFENDANT'S MOTION TO CLARIFY SENTENCE LENGTH [#49]**

Now before the Court is Defendant Marlon Fencher's ("Fencher") *pro se* "Motion to Clarify Sentence Length to the Bureau of Prisons." (Doc # 49, filed Apr. 5, 2018) This motion alleges that Defendant's sentence for Bank Fraud Conspiracy and Aggravated Identity Theft was wrongly extended from thirty-six to thirty-seven months due to a clerical error. Defendant seeks to have this Court rectify the alleged error, and provide the Defendant with a copy of his judgment and sentencing transcript. For the reasons set forth below, Defendant's motion is **DENIED**.

**I. ANALYSIS**

**A. Legal Authority**

Defendant seeks to bring an alleged clerical error in his sentencing to the Court's attention. District courts may correct a "clerical error" in a judgment "at any

time.” Fed. R. Crim. P. 36. Such an error must be the result of a mechanical, recitation-like mistake, and not the result of judgment or omission by the Court. *See United States v. Robinson*, 368 F.3d 653, 656 (6th Cir. 2004).

In addition, Defendant’s requests for a copy of his judgment and sentencing transcript can be construed as a request for the preparation of documents at the expense of the United States. 28 U.S.C.A. § 753(f) (West 2016). Fees for transcripts requested by persons *in forma pauperis* shall be paid by the United States “if the trial judge . . . certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue.” *Id.*

## **B. Absence of Clerical Error**

Defendant’s motion lacks merit, since no clerical error occurred. On February 6, 2018, Defendant was sentenced to thirteen months for Bank Fraud Conspiracy (18 U.S.C. §§ 1344 and 1349) and twenty-four months for Aggravated Identify Theft (18 U.S.C. §§ 1028A and 1028(a)(1) and (b)), resulting in a thirty-seven month sentence. (Doc # 47) There is no clerical error, and no grounds for clarification with the Federal Bureau of Prisons.

## **C. Request for Transcripts**

Defendant’s request for transcripts at the expense of the Court is also denied. In addition to Defendant not registering with the Court for *in forma pauperis* status, there is no clerical error to justify the request. Since the transcripts are not necessary

for the resolving of a legal issue, the request is without merit. If the Defendant seeks further information beyond what was provided in this order, he may submit a request to the court reporter and pay the subsequent fee. 28 U.S.C.A. § 753(f) (West 2016).

## **II. CONCLUSION**

For the reasons set forth above,

**IT IS HEREBY ORDERED** that Defendant Marlon Fencher's Motion to Clarify Sentence Length to the Bureau of Prisons (Doc # 49) is **DENIED**.

S/Denise Page Hood  
Denise Page Hood  
Chief Judge, United States District Court

Dated: August 10, 2018

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 10, 2018, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry  
Case Manager